

State of New Mexico  
Mining and Minerals Division  
2040 South Pacheco St.  
Santa Fe, NM 87505

Fax Cover Sheet

Date: 06/03/97

To: Mr. Juan Velasquez

From: Robert Young

Company: United Nuclear

Agency: Mining and Minerals Division

Telephone:

Telephone: (505) 827-5970

Fax #: (505) 262-1809

Fax #: (505) 827-7195

Number of Pages: 7 (including cover sheet)

Message:

*Here is a sample Application For  
Variance. Please fax a copy of  
your proposed form of public notice  
to MMD before you publish it.*

Original will be sent by mail ☐ yes ☒ no

*Unless Requested*

# HOMESTAKE MINING COMPANY

P.O. BOX 98  
GRANTS, NEW MEXICO 87020  
(505) 287-4456

March 29, 1996

CERTIFIED MAIL NO.: P 369 600 937

Ms. Kathleen A. Garland, Director  
Mining and Minerals Division of  
New Mexico Energy, Minerals and  
Natural Resources Department  
P.O. Box 6429  
Santa Fe, New Mexico 87505-6429



Re: Application for Variance for Section 23 Mine, Homestake Mining Company

Dear Ms. Garland:

Enclosed is the *Application for Variance* for Section 23 Mine located in McKinley County, Township 14 North, Range 10 West. We have followed Subpart 9 - Public Participation for an application for a variance. As per Subpart 903.A the following adjacent land owners were given notice: Quivira Mining Company, Bureau of Land Management and Mr. Jerry Elkins. Subpart 903.B requires that McKinley County and Navajo Nation be given notice. Published notice in English and Spanish was done on March 29, 1996 in the Gallup independent and Cibola County Beacon as required by Subpart 903.C. Subpart 903.D required posting of notice in four locations, which were done at: McKinley County Clerk's office and McKinley Public Library in Gallup, New Mexico; and Public Library and Cibola County Clerk's office in Grants, New Mexico. Subpart 903.E required mailing notice to Cerrillos Land Company mineral lessor. Subpart 903.G required notice to be sent to Environmental Department, State Engineer, Department of Game and Fish, Forestry Division and State Historic Preservation Division. See attached letters for proof of notice. Copies of returned certified mail receipts and newspaper proof of publication will be forwarded to you under a separate cover letter.

I believe that the *Application for Variance* is complete and answers all concerns dealing with this variance. Enclosed is the \$522.50 fee for an application for variance. I'm looking forward to a timely response and should you or you staff have any questions please contact me at the Grants Project office.

Sincerely,

F. R. Craft  
Resident Manager

FRC:jg

Enclosures

*An Equal Opportunity Employer*

**APPLICATION FOR VARIANCE**  
**Pursuant to New Mexico Mining Act Rules Subpart 10**  
**(19 NMAC 10.2 Subpart 10)**

**1002.A**

**1. The applicant is:**

Homestake Mining Company of California  
P.O. Box 98  
Grants, New Mexico 87020  
Contact person: Mr. Fred Craft  
Telephone: 505 287-4456  
Fax: 505 287-9289

**2. This application is submitted 29 March 1996**

**3. A variance is sought for the Section 23 Mine at Ambrosia Lake.**

**4. The mine is located in Township 14 North, Range 10 West, McKinley County.**

**5. A variance is sought from Subpart 5, Section 510.B, which requires that a permit application be submitted within 6 months after the owner receives notice of the determination that prior reclamation measures do not satisfy the requirements for reclamation. Rather than submit a permit application, Homestake proposes the course of action described below.**

**6. This section describes the extent to which, and why, Homestake wishes to vary from Subpart 5.**

**6. a. Background** As a result of an MMD inspection of the Section 23 Mine conducted on 29 June 1995, the Director determined in a letter dated 29 September 1995 (which was received by Homestake on 16 November 1995) that: "The Section 23 Mine was identified by staff as having insufficient cover to meet release." The Director went on to say: "However, since Homestake has completed most reclamation measures at the mine, Homestake may apply for a variance from the provisions of the NMMA Rules pursuant to Rule 10. Otherwise, Homestake must apply for a permit under the provisions of Rule 5.10.B." Subsequent communications between Holland Shepherd of MMD and Fred Craft of Homestake determined that all other reclamation measures, other than revegetation, have been satisfactorily completed at the Section 23 Mine.

**6. b. Proposal** Therefore, Homestake proposes the following course of action for the Section 23 Mine. In the fall of 1996, following summer rains but before the estimated end of the growing season, Homestake will conduct a statistically-valid vegetation survey of the site, including enough 30-meter line intercept transects to meet sample adequacy. The survey will measure vegetation cover by species, and photographs will be taken to document the condition of the vegetation. If the results of the 1996 survey demonstrate that release criteria are met, then Homestake will ask MMD to release the Mine from further liability for reclamation. If the 1996 survey results do not meet release criteria, Homestake will follow the same survey procedure in 1997. If the site does not meet release criteria at the end of the 1997 vegetation survey, Homestake will determine the appropriate course of action to take in order meet release criteria, and will then provide MMD with an opportunity to review and comment on the proposed course of action.

**6. c. Justification** The MMD report dated 26 September 1995 says that 5 species of plants that were seeded in 1992 are present on the site, in addition to 10 other species (or 12 if you include the two species listed in the first paragraph of the Section 23 narrative but not listed in the subsequent Table). According to the Prior Reclamation Report for the Section 23 Mine which Homestake submitted to MMD, dated 29 August 1994, only 5 species of plants were seeded at the site. Therefore, all species seeded have apparently germinated. Among the non-seeded species indicated to be present in 1995 are 3 valuable perennials, namely Scarlet globemallow, Winterfat, and Fourwing saltbush, that are commonly use in revegetation of mines in northwest New Mexico. The presence of at least 8 perennial species on the site, in spite of the fact that none of them showed up in the transect MMD measured, indicates that Section 23 is capable of supporting a diverse mix of the native perennial plant species that are desirable for the site. Moreover, there is no evidence from the MMD survey, or from any other source, that any soil contamination or other problems exist that would interfere with plant growth at the site.

Native vegetation such as that found at Ambrosia Lake is commonly described in the literature as "patchy" (see, for example, New Mexico Vegetation Past, Present, and Future, by W.A. Dick-Peddie, p. 123.). This fact, combined with the uneven distribution of precipitation that is characteristic of the area, means that it is not unusual to find native sites where the distribution of plant species is uneven and considerable bare ground is present after a disturbance. Likewise, it is not unusual to find revegetated areas where the seeded species are also patchy, especially given the fact that, without supplemental irrigation, native plants can take as many as 5 complete growing seasons (or more) to establish in northwest New Mexico. Note that only two complete growing

seasons (those of 1993 and 1994) elapsed between the June 1992 seeding of Section 23 and the June 1995 MMD inspection.

The MMD report of the June 1995 inspection, on page 9, notes: "Homestake may need to consider reseeding this site or wait to see if an adequate cover can be achieved in another season or two of growth" (emphasis added). In this variance application, Homestake proposes to take the latter course of action, i.e., to wait one or two more growing seasons to see if adequate cover can be achieved. This seems to be justified because of the presence on the site of at least 8 species of perennial vegetation, and the fact that only 2 complete growing seasons elapsed between seeding and the MMD inspection. It is also worth noting that total precipitation at Grants airport (the nearest National Weather Service station, located approximately 19 miles south of Ambrosia Lake) in 1994, the year before the MMD inspection, was 7.73 inches, which is only about 72% of the annual average. And, in the 2 months prior to the MMD inspection (May and June, 1995), only 0.74 inch of precipitation was recorded at the Homestake Grants mill site, which is located approximately 14 miles south of Ambrosia Lake. Therefore, if the growing season before the inspection had below-average precipitation, and the months immediately prior to the inspection had little precipitation, then it is reasonable to assume that the vegetative cover measured during the inspection may not reflect the amount of cover that might be present if the site is given two more growing seasons (1996 and 1997) with average precipitation.

7. If the requested variance is not granted, Homestake will be forced to apply for a permit pursuant to Subpart 5, and then wait 12 years following the issuance of the permit for the site to be released. The cost of compiling a complete permit application for the Section 23 Mine pursuant to Subpart 5 and the other applicable Subparts, is estimated to be approximately \$25,000. Fees associated with a permit are estimated according to the following calculations.

1. Permit application (Rule 201.A.1)	\$ 1,000.00	
(201.A.2.)	1,000.00	
(205.A)	90.00	
Total permit application fee:		\$ 2,090
2. Annual fee		
(202.A.1.)	\$ 1,000.00	
(202.A.2)	900.00	
(205.A)	85.50	
Annual fee:	\$ 1,985.50	
Total annual fee for 12 years:		
\$1,985.50 X 12 years =		\$ 23,826

The reclamation performance bond is estimated to be approximately \$150,000 (100 acres X \$1,500 per acre for revegetation only), resulting in an opportunity cost (the cost of having this amount of money, plus other costs associated with the permit, unavailable for investment, conservatively estimated on the basis of only 5% possible return on investment) of  $\$200,916 \times 5\%$  per year for 12 years = \$120,552. In total, the cost of permitting the Section 23 Mine is estimated as follows:

Prepare permit application:	\$ 25,000
Permit application fee:	2,090
Annual fee for 12 years:	23,826
Performance bond:	150,000
Opportunity cost:	120,552
 Total estimated cost of permitting:	 \$321,468

It is not reasonable to require Homestake to spend approximately \$321,468, and wait 12 years to see if the vegetation becomes established, given what is known about the time required to establish vegetation in northwest New Mexico and the opportunity to resolve this issue in less time (see above in section 6.). By the end of the growing season of 1997, if the vegetation at the site does not meet release criteria, then Homestake will at that time determine the appropriate course of action to take in order meet release criteria. Before undertaking any action, Homestake will provide MMD with an opportunity to review and comment on the proposed course of action. Until then, there is no justification to require the expenditure of approximately \$321,468, especially given the fact that not one dollar of that money will result in expediting the establishment of vegetative cover at the Section 23 Mine.

8. As indicated above in section 6., all of the reclamation requirements at the site, other than revegetation, have been satisfactorily completed. The site does not now constitute in any way a threat to human health, safety, or the environment, according to the 26 September 1995 report of the MMD inspection of 29 June 1995. Granting this variance would not result in any change at the site that would modify that status. Therefore, granting this variance would not result in a significant threat to human health, safety or the environment.

9. Pursuant to Rules 201.K and 205.A, the fee for an application for a variance is \$522.50, which is enclosed.

## PUBLIC NOTICE

Homestake Mining Company of California (HMC) has submitted an APPLICATION FOR A VARIANCE for its Section 23 Mine at Ambrosia Lake, in accordance with the provisions of Subpart 10 of the New Mexico Mining Act Rules of February 15, 1996 (19 NMAC 10.2 Subpart 10).

The Mine is located in McKinley County at Ambrosia Lake, in Township 14 North, Range 10 West, New Mexico Principal Meridian. The Mine covers 100 acres of land previously disturbed for uranium mining. All of the Mine site has been reclaimed according to the requirements of applicable laws and regulations. The purpose of the variance is to provide for up to two additional growing seasons before the determination is made by the Mining and Minerals Division (MMD) that the site meets the criteria for release from additional revegetation requirements.

The applicant's address is:

Homestake Mining Company of California

P.O. Box 98

Grants, New Mexico 87020

Interested persons wishing to submit written comments or a request for a public hearing on this matter may do so by writing to:

Director, Mining and Minerals Division

Energy, Minerals and Natural Resources Department

State of New Mexico

2042 South Pacheco Street

Santa Fe, New Mexico 87505

The deadline for submittals is Monday, April 29, 1996.

Copies of the Application for a Variance is available for public inspection at the Public Library and Cibola County Clerk's office in Grants, New Mexico, at the Public Library and McKinley County Clerk's office in Gallup, New Mexico.

Friday, March 29, 1996.

## AVISO PUBLICO

Homestake Mining Company of California (HMC) ha sometido una SOLICITUD PARA UNA VARIACION para su Mina de Sección 23 en Ambrosia Lake, de acuerdo con las provisiones de Subparte 10 de las Reglas del Acto de Minería del estado de Nuevo México, del 15 de febrero de 1996 (19 NMAC 10.2 Subpart 10).

La Mina de Sección 23 está situada en el Condado de McKinley, en Ambrosia Lake, en Township 14 Norte, Extensión 10 Oeste, New Mexico Principal Meridian. La Mina tiene una extensión de 100 acres de tierra anteriormente perturbado por la minería del uranio. Todo el sitio de la Mina ha sido rehabilitado conforme a los requisitos de las leyes y reglamentos aplicables. El propósito de la variación es proveer para que pase dos más estaciones de crecimiento antes de la determinación, a ser hecho por la División de Minería y Minerales (MMD), que el sitio cumple con los criterios para releva de las obligaciones de algún requisito adicional para la revegetación.

La dirección del suplicante es:

Homestake Mining Company of California

P.O. 98

Grants, New Mexico 87020.

Personas interesadas que desean someter algún comentario escrito, o una súplica para una audiencia pública sobre esta materia, deben dirigir su solicitud escrito a:

Director, Mining and Minerals Division

Energy, Minerals and Natural Resources Department

2040 South Pacheco Street

Santa Fe, New Mexico 87505.

La fecha final para someter propuestas o comentarios es el lunes, día 29 de abril de 1996.

Copias de la solicitud para una variación están disponibles para inspección pública en la Biblioteca Pública y en la oficina del Secretario del Condado de Cibola, en Grants, New Mexico, y en la Biblioteca Pública y en la oficina del Secretario del Condado de McKinley, en Gallup, New Mexico.

Viernes, 29 de marzo, 1996.